

FILED

MAR 19 2019

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY                       
DEPUTY CLERK

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

UNITED STATES OF AMERICA  
*ex rel.* DANIEL MONTES, JR., and  
ELIZABETH H. HUDSON,

Plaintiff,

**V.**

MAIN BUILDING MAINTENANCE,  
INC., *et al.*,

**Defendants.**

Civ. A. No. SA-16-CV-0523-FB

**FILED UNDER SEAL**

## UNITED STATES' NOTICE OF ELECTION TO DECLINE INTERVENTION

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the United States notifies the Court of its decision not to intervene in this action.

Although the United States declines to intervene, we respectfully refer the Court to 31 U.S.C. § 3730(b)(1), which allows the relator to maintain the action in the name of the United States; provided, however, that the “action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.” *Id.* Therefore, the United States requests that, should either the relators or the defendants propose that this action be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of the United States before ruling or granting its approval.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings filed in this action be served upon the United States; the United States also requests that orders issued by the Court be sent to the Government's counsel. The United States reserves its right to order any deposition transcripts, to intervene in this action, for good cause, at a later

date, and to seek the dismissal of the relators' action or claim. The United States also requests that it be served with all notices of appeal.

Finally, the United States requests that the relators' Complaint, this Notice, and the attached Proposed Order be unsealed. The United States requests that all other papers on file in this action remain under seal because in discussing the content and extent of the United States' investigation, such papers are provided by law to the Court alone for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended.

A proposed order accompanies this notice.

Dated: March 19, 2019

Respectfully submitted,

JOHN F. BASH  
United States Attorney

By:



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*Attorneys for the United States of America*

**CERTIFICATE OF SERVICE**

I certify that, on March 19, 2019, I caused the United States' Notice of Election to Decline Intervention, along with a proposed order, to be served by U.S. mail on relators' counsel at the following addresses:

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Assistant United States Attorney

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Civ. A. No. SA-16-CV-0523-FB

**ORDER**

The United States having declined to intervene in this action pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the Court rules as follows:

IT IS ORDERED that

1. the complaint be unsealed and served upon the defendants by the relators;
2. all other contents of the Court's file in this action remain under seal and not be made public or served upon the defendants, except for this Order and the United States' Notice of Election to Decline Intervention, which the relators will serve upon the defendants only after service of the complaint;
3. the seal be lifted as to all other matters occurring in this action after the date of this Order;
4. the parties shall serve all pleadings and motions filed in this action, including supporting memoranda, upon the United States, as provided for in 31 U.S.C. § 3730(c)(3). The

United States may order any deposition transcripts and is entitled to intervene in this action, for good cause, at any time;

5. the parties shall serve all notices of appeal upon the United States;
6. all orders of this Court shall be sent to the United States; and that
7. should the relators or the defendants propose that this action be dismissed, settled, or otherwise discontinued, the Court will solicit the written consent of the United States before ruling or granting its approval.

IT IS SO ORDERED, this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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THE HONORABLE FRED BIERY  
UNITED STATES DISTRICT JUDGE